

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

UNITED STATES OF AMERICA,

Plaintiff,

vs.

Case No.: 19CR00437 JB

PATRICK YELLOWHAIR,

Defendant.

UNOPPOSED MOTION TO VACATE SENTENCING SETTING

COMES NOW, Patrick Yellowhair, the defendant, by and through his attorney of record, Amanda Lavin, Assistant Federal Public Defender, and moves this Court for an order vacating the sentencing setting of November 4, 2019, as well as related deadlines. Assistant United States Attorney Allison Jaros, Esq., was contacted regarding the government's position on this motion, and does not object.

In support of his motion, Mr. Yellowhair states as follows:

1. Mr. Yellowhair entered a plea of guilty in this matter on February 15, 2019.
2. On August 14, 2019, defense counsel, on behalf of Mr. Yellowhair, filed a Motion to Determine Competency (Doc. 33).
3. On August 16, 2019, Assistant United States Attorney Allison Jaros, filed an Unopposed Motion For Competency Evaluation requesting that a second evaluation be conducted by Dr. Julie M. Brovko, Ph.D. That same day, Ms.

- Jaros submitted a proposed stipulated order to stay all proceedings in this matter until the issue of competency is resolved, and to appoint Dr. Brovko to conduct a second psychological evaluation of Mr. Yellowhair (Doc. 34).
4. The court granted the government's motion but declined to stay the proceedings (Doc. 38).
 5. Mr. Yellowhair filed a motion to vacate the September 5, 2019 sentencing hearing, citing the need to postpone sentencing until after a hearing on the issue of Mr. Yellowhair's competency is held and a finding as to his competency is made by the district court (Doc.35).
 6. The court vacated the September 5, 2019 hearing, however, the court rescheduled this matter for sentencing on November 4, 2019 (Doc. 37).
 7. The issue of Mr. Yellowhair's competency has yet to be resolved.
 8. A competency hearing is scheduled for December 3, 2019. Mr. Yellowhair cannot be sentenced in this matter unless the court ultimately finds he is competent to stand trial pursuant to 18 U.S.C.A. § 4241.
 9. The sentencing hearing in this matter must be vacated until the issue of competency is resolved.
 10. Any delay caused by vacating the setting on November 4, 2019, will not prejudice either party.

WHEREFORE, the defendant respectfully requests that the court vacate the

sentencing setting of November 4, 2019, and stay sentencing in this matter until Mr. Yellowhair is found competent to stand trial pursuant to 18 U.S.C.A. § 4241.

Respectfully submitted,

FEDERAL PUBLIC DEFENDER

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Electronically filed November 1, 2019

/s/ Amanda Lavin

Assistant Federal Public Defender

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